

AMENDED IN SENATE JANUARY 6, 2014

SENATE BILL

No. 674

Introduced by Senator Corbett

February 22, 2013

~~An act to amend Section 399.20 of the Public Utilities Code, relating to energy. An act to amend Section 21159.24 of the Public Resources Code, relating to environmental quality.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 674, as amended, Corbett. ~~Energy: renewable energy. California Environmental Quality Act: exemption: residential infill projects.~~

(1) The California Environmental Quality Act, commonly referred to as CEQA, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA exempts from these requirements residential infill projects meeting specified criteria, including, among other things, that a community-level environmental review was adopted or certified within 5 years of the date that the application for the project is deemed complete and the project promotes higher density infill housing. For the purposes of this exemption, CEQA defines "residential" to include a use consisting of residential units and primarily neighborhood-serving

goods, services, or retail uses that do not exceed 15% of the total floor area of the project.

This bill would instead exempt as “residential” a use consisting of residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 25% of the total building square footage of the project.

(2) Because this bill would require a lead agency to determine whether a project meets the above criteria to qualify for an exemption from CEQA, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that qualifies for the tariff, is owned and operated by a retail customer of the electrical corporation, and is located within the service territory of, and developed to sell electricity to, the electrical corporation. Existing law requires an electrical corporation to make the tariff available to the owner or operator of an electric generation facility within the service territory of the electrical corporation, as specified, until the electrical corporation meets its proportionate share of a statewide cap of 750 megawatts, as specified.~~

~~This bill would require the commission to adjust the payment rate for electricity purchased from electrical generation facility projects that integrate energy storage to adequately compensate for the additional value that energy storage system provides.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 21159.24 of the Public Resources Code*
- 2 *is amended to read:*

1 21159.24. (a) Except as provided in subdivision (b), this
2 division does not apply to a project if all of the following criteria
3 are met:

- 4 (1) The project is a residential project on an infill site.
5 (2) The project is located within an urbanized area.
6 (3) The project satisfies the criteria of Section 21159.21.
7 (4) Within five years of the date that the application for the
8 project is deemed complete pursuant to Section 65943 of the
9 Government Code, community-level environmental review was
10 certified or adopted.
11 (5) The site of the project is not more than four acres in total
12 area.
13 (6) The project does not contain more than 100 residential units.
14 (7) Either of the following criteria are met:
15 (A) (i) At least 10 percent of the housing is sold to families of
16 moderate income, or not less than 10 percent of the housing is
17 rented to families of low income, or not less than 5 percent of the
18 housing is rented to families of very low income.
19 (ii) The project developer provides sufficient legal commitments
20 to the appropriate local agency to ensure the continued availability
21 and use of the housing units for very low, low-, and
22 moderate-income households at monthly housing costs determined
23 pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of
24 the Government Code.
25 (B) The project developer has paid or will pay in-lieu fees
26 pursuant to a local ordinance in an amount sufficient to result in
27 the development of an equivalent number of units that would
28 otherwise be required pursuant to subparagraph (A).
29 (8) The project is within one-half mile of a major transit stop.
30 (9) The project does not include any single level building that
31 exceeds 100,000 square feet.
32 (10) The project promotes higher density infill housing. A
33 project with a density of at least 20 units per acre shall be
34 conclusively presumed to promote higher density infill housing.
35 A project with a density of at least 10 units per acre and a density
36 greater than the average density of the residential properties within
37 1,500 feet shall be presumed to promote higher density housing
38 unless the preponderance of the evidence demonstrates otherwise.

(b) Notwithstanding subdivision (a), this division shall apply to a development project that meets the criteria described in subdivision (a), if any of the following occur:

(1) There is a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances.

(2) Substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified or adopted.

(3) New information becomes available regarding the circumstances under which the project is being undertaken and that is related to the project, that was not known, and could not have been known, at the time that community-level environmental review was certified or adopted.

(c) If a project satisfies the criteria described in subdivision (a), but is not exempt from this division as a result of satisfying the criteria described in subdivision (b), the analysis of the environmental effects of the project in the environmental impact report or the negative declaration shall be limited to an analysis of the project-specific effect of the projects and any effects identified pursuant to paragraph (2) or (3) of subdivision (b).

(d) For the purposes of this section, “residential” means a use consisting of either of the following:

(1) Residential units only.

(2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 25 percent of the total floor area building square footage of the project.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

~~SECTION 1. Section 399.20 of the Public Utilities Code is amended to read:~~

~~399.20. (a) It is the policy of this state and the intent of the Legislature to encourage electrical generation from eligible renewable energy resources.~~

1 ~~(b) As used in this section, “electric generation facility” means~~
2 ~~an electric generation facility located within the service territory~~
3 ~~of, and developed to sell electricity to, an electrical corporation~~
4 ~~that meets all of the following criteria:~~

5 ~~(1) Has an effective capacity of not more than three megawatts.~~

6 ~~(2) Is interconnected and operates in parallel with the electrical~~
7 ~~transmission and distribution grid.~~

8 ~~(3) Is strategically located and interconnected to the electrical~~
9 ~~transmission and distribution grid in a manner that optimizes the~~
10 ~~deliverability of electricity generated at the facility to load centers.~~

11 ~~(4) Is an eligible renewable energy resource.~~

12 ~~(e) Every electrical corporation shall file with the commission~~
13 ~~a standard tariff for electricity purchased from an electric~~
14 ~~generation facility. The commission may modify or adjust the~~
15 ~~requirements of this section for any electrical corporation with less~~
16 ~~than 100,000 service connections, as individual circumstances~~
17 ~~merit.~~

18 ~~(d) (1) The tariff shall provide for payment for every~~
19 ~~kilowatthour of electricity purchased from an electric generation~~
20 ~~facility for a period of 10, 15, or 20 years, as authorized by the~~
21 ~~commission. The payment shall be the market price determined~~
22 ~~by the commission pursuant to paragraph (2) and shall include all~~
23 ~~current and anticipated environmental compliance costs, including,~~
24 ~~but not limited to, mitigation of emissions of greenhouse gases~~
25 ~~and air pollution offsets associated with the operation of new~~
26 ~~generating facilities in the local air pollution control or air quality~~
27 ~~management district where the electric generation facility is~~
28 ~~located.~~

29 ~~(2) The commission shall establish a methodology to determine~~
30 ~~the market price of electricity for terms corresponding to the length~~
31 ~~of contracts with an electric generation facility, in consideration~~
32 ~~of the following:~~

33 ~~(A) The long-term market price of electricity for fixed price~~
34 ~~contracts, determined pursuant to an electrical corporation’s general~~
35 ~~procurement activities as authorized by the commission.~~

36 ~~(B) The long-term ownership, operating, and fixed-price fuel~~
37 ~~costs associated with fixed-price electricity from new generating~~
38 ~~facilities.~~

39 ~~(C) The value of different electricity products including~~
40 ~~baseload, peaking, and as-available electricity.~~

1 ~~(3) The commission may adjust the payment rate to reflect the~~
2 ~~value of every kilowatthour of electricity generated on a~~
3 ~~time-of-delivery basis.~~

4 ~~(4) The commission shall ensure, with respect to rates and~~
5 ~~charges, that ratepayers that do not receive service pursuant to the~~
6 ~~tariff are indifferent to whether a ratepayer with an electric~~
7 ~~generation facility receives service pursuant to the tariff.~~

8 ~~(5) The commission shall adjust the payment rate for electricity~~
9 ~~purchased from electrical generation facility projects that integrate~~
10 ~~energy storage to adequately compensate for the additional value~~
11 ~~that energy storage system provides. The adjustment shall reflect~~
12 ~~all the benefits that the energy storage system provides to the~~
13 ~~electrical corporation and the grid.~~

14 ~~(e) An electrical corporation shall provide expedited~~
15 ~~interconnection procedures to an electric generation facility located~~
16 ~~on a distribution circuit that generates electricity at a time and in~~
17 ~~a manner so as to offset the peak demand on the distribution circuit,~~
18 ~~if the electrical corporation determines that the electric generation~~
19 ~~facility will not adversely affect the distribution grid. The~~
20 ~~commission shall consider and may establish a value for an electric~~
21 ~~generation facility located on a distribution circuit that generates~~
22 ~~electricity at a time and in a manner so as to offset the peak demand~~
23 ~~on the distribution circuit.~~

24 ~~(f) (1) An electrical corporation shall make the tariff available~~
25 ~~to the owner or operator of an electric generation facility within~~
26 ~~the service territory of the electrical corporation, upon request, on~~
27 ~~a first-come-first-served basis, until the electrical corporation meets~~
28 ~~its proportionate share of a statewide cap of 750 megawatts~~
29 ~~cumulative rated generation capacity served under this section and~~
30 ~~Section 387.6. The proportionate share shall be calculated based~~
31 ~~on the ratio of the electrical corporation's peak demand compared~~
32 ~~to the total statewide peak demand.~~

33 ~~(2) By June 1, 2013, the commission shall, in addition to the~~
34 ~~750 megawatts identified in paragraph (1), direct the electrical~~
35 ~~corporations to collectively procure at least 250 megawatts of~~
36 ~~cumulative rated generating capacity from developers of bioenergy~~
37 ~~projects that commence operation on or after June 1, 2013. The~~
38 ~~commission shall, for each electrical corporation, allocate shares~~
39 ~~of the additional 250 megawatts based on the ratio of each electrical~~
40 ~~corporation's peak demand compared to the total statewide peak~~

1 demand. In implementing this paragraph, the commission shall do
2 all of the following:

3 (A) ~~Allocate the 250 megawatts identified in this paragraph~~
4 ~~among the electrical corporations based on the following~~
5 ~~categories:~~

6 (i) ~~For biogas from wastewater treatment, municipal organic~~
7 ~~waste diversion, food processing, and codigestion, 110 megawatts.~~

8 (ii) ~~For dairy and other agricultural bioenergy, 90 megawatts.~~

9 (iii) ~~For bioenergy using byproducts of sustainable forest~~
10 ~~management, 50 megawatts. Allocations under this category shall~~
11 ~~be determined based on the proportion of bioenergy that sustainable~~
12 ~~forest management providers derive from sustainable forest~~
13 ~~management in fire threat treatment areas, as designated by the~~
14 ~~Department of Forestry and Fire Protection.~~

15 (B) ~~Direct the electrical corporations to develop standard~~
16 ~~contract terms and conditions that reflect the operational~~
17 ~~characteristics of the projects, and to provide a streamlined~~
18 ~~contracting process.~~

19 (C) ~~Coordinate, to the maximum extent feasible, any incentive~~
20 ~~or subsidy programs for bioenergy with the agencies listed in~~
21 ~~subparagraph (A) of paragraph (3) in order to provide maximum~~
22 ~~benefits to ratepayers and to ensure that incentives are used to~~
23 ~~reduce contract prices.~~

24 (D) ~~The commission shall encourage gas and electrical~~
25 ~~corporations to develop and offer programs and services to facilitate~~
26 ~~development of in-state biogas for a broad range of purposes.~~

27 (3) (A) ~~The commission, in consultation with the State Energy~~
28 ~~Resources Conservation and Development Commission, the State~~
29 ~~Air Resources Board, the Department of Forestry and Fire~~
30 ~~Protection, the Department of Food and Agriculture, and the~~
31 ~~Department of Resources Recycling and Recovery, may review~~
32 ~~the allocations of the 250 additional megawatts identified in~~
33 ~~paragraph (2) to determine if those allocations are appropriate.~~

34 (B) ~~If the commission finds that the allocations of the 250~~
35 ~~additional megawatts identified in paragraph (2) are not~~
36 ~~appropriate, the commission may reallocate the 250 megawatts~~
37 ~~among the categories established in subparagraph (A) of paragraph~~
38 ~~(2).~~

39 (4) ~~For the purposes of this subdivision, “bioenergy” means~~
40 ~~biogas and biomass.~~

1 ~~(g) The electrical corporation may make the terms of the tariff~~
2 ~~available to owners and operators of an electric generation facility~~
3 ~~in the form of a standard contract subject to commission approval.~~

4 ~~(h) Every kilowatthour of electricity purchased from an electric~~
5 ~~generation facility shall count toward meeting the electrical~~
6 ~~corporation's renewables portfolio standard annual procurement~~
7 ~~targets for purposes of paragraph (1) of subdivision (b) of Section~~
8 ~~399.15.~~

9 ~~(i) The physical generating capacity of an electric generation~~
10 ~~facility shall count toward the electrical corporation's resource~~
11 ~~adequacy requirement for purposes of Section 380.~~

12 ~~(j) (1) The commission shall establish performance standards~~
13 ~~for any electric generation facility that has a capacity greater than~~
14 ~~one megawatt to ensure that those facilities are constructed,~~
15 ~~operated, and maintained to generate the expected annual net~~
16 ~~production of electricity and do not impact system reliability.~~

17 ~~(2) The commission may reduce the three megawatt capacity~~
18 ~~limitation of paragraph (1) of subdivision (b) if the commission~~
19 ~~finds that a reduced capacity limitation is necessary to maintain~~
20 ~~system reliability within that electrical corporation's service~~
21 ~~territory.~~

22 ~~(k) (1) Any owner or operator of an electric generation facility~~
23 ~~that received ratepayer-funded incentives in accordance with~~
24 ~~Section 379.6 of this code, or with Section 25782 of the Public~~
25 ~~Resources Code, and participated in a net metering program~~
26 ~~pursuant to Sections 2827, 2827.9, and 2827.10 of this code prior~~
27 ~~to January 1, 2010, shall be eligible for a tariff or standard contract~~
28 ~~filed by an electrical corporation pursuant to this section.~~

29 ~~(2) In establishing the tariffs or standard contracts pursuant to~~
30 ~~this section, the commission shall consider ratepayer-funded~~
31 ~~incentive payments previously received by the generation facility~~
32 ~~pursuant to Section 379.6 of this code or Section 25782 of the~~
33 ~~Public Resources Code. The commission shall require~~
34 ~~reimbursement of any funds received from these incentive~~
35 ~~programs to an electric generation facility, in order for that facility~~
36 ~~to be eligible for a tariff or standard contract filed by an electrical~~
37 ~~corporation pursuant to this section, unless the commission~~
38 ~~determines ratepayers have received sufficient value from the~~
39 ~~incentives provided to the facility based on how long the project~~

1 ~~has been in operation and the amount of renewable electricity~~
2 ~~previously generated by the facility.~~

3 ~~(3) A customer that receives service under a tariff or contract~~
4 ~~approved by the commission pursuant to this section is not eligible~~
5 ~~to participate in any net metering program.~~

6 ~~(l) An owner or operator of an electric generation facility~~
7 ~~electing to receive service under a tariff or contract approved by~~
8 ~~the commission shall continue to receive service under the tariff~~
9 ~~or contract until either of the following occurs:~~

10 ~~(1) The owner or operator of an electric generation facility no~~
11 ~~longer meets the eligibility requirements for receiving service~~
12 ~~pursuant to the tariff or contract.~~

13 ~~(2) The period of service established by the commission pursuant~~
14 ~~to subdivision (d) is completed.~~

15 ~~(m) Within 10 days of receipt of a request for a tariff pursuant~~
16 ~~to this section from an owner or operator of an electric generation~~
17 ~~facility, the electrical corporation that receives the request shall~~
18 ~~post a copy of the request on its Internet Web site. The information~~
19 ~~posted on the Internet Web site shall include the name of the city~~
20 ~~in which the facility is located, but information that is proprietary~~
21 ~~and confidential, including, but not limited to, address information~~
22 ~~beyond the name of the city in which the facility is located, shall~~
23 ~~be redacted.~~

24 ~~(n) An electrical corporation may deny a tariff request pursuant~~
25 ~~to this section if the electrical corporation makes any of the~~
26 ~~following findings:~~

27 ~~(1) The electric generation facility does not meet the~~
28 ~~requirements of this section.~~

29 ~~(2) The transmission or distribution grid that would serve as the~~
30 ~~point of interconnection is inadequate.~~

31 ~~(3) The electric generation facility does not meet all applicable~~
32 ~~state and local laws and building standards and utility~~
33 ~~interconnection requirements.~~

34 ~~(4) The aggregate of all electric generating facilities on a~~
35 ~~distribution circuit would adversely impact utility operation and~~
36 ~~load restoration efforts of the distribution system.~~

37 ~~(o) Upon receiving a notice of denial from an electrical~~
38 ~~corporation, the owner or operator of the electric generation facility~~
39 ~~denied a tariff pursuant to this section shall have the right to appeal~~
40 ~~that decision to the commission.~~

1 ~~(p) In order to ensure the safety and reliability of electric~~
2 ~~generation facilities, the owner of an electric generation facility~~
3 ~~receiving a tariff pursuant to this section shall provide an inspection~~
4 ~~and maintenance report to the electrical corporation at least once~~
5 ~~every other year. The inspection and maintenance report shall be~~
6 ~~prepared at the owner's or operator's expense by a~~
7 ~~California-licensed contractor who is not the owner or operator of~~
8 ~~the electric generation facility. A California-licensed electrician~~
9 ~~shall perform the inspection of the electrical portion of the~~
10 ~~generation facility.~~

11 ~~(q) The contract between the electric generation facility~~
12 ~~receiving the tariff and the electrical corporation shall contain~~
13 ~~provisions that ensure that construction of the electric generating~~
14 ~~facility complies with all applicable state and local laws and~~
15 ~~building standards, and utility interconnection requirements.~~

16 ~~(r) (1) All construction and installation of facilities of the~~
17 ~~electrical corporation, including at the point of the output meter~~
18 ~~or at the transmission or distribution grid, shall be performed only~~
19 ~~by that electrical corporation.~~

20 ~~(2) All interconnection facilities installed on the electrical~~
21 ~~corporation's side of the transfer point for electricity between the~~
22 ~~electrical corporation and the electrical conductors of the electric~~
23 ~~generation facility shall be owned, operated, and maintained only~~
24 ~~by the electrical corporation. The ownership, installation, operation,~~
25 ~~reading, and testing of revenue metering equipment for electric~~
26 ~~generating facilities shall only be performed by the electrical~~
27 ~~corporation.~~